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No. 88-443

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

October Term, 1988

TERESA TAYLOR and CALVIN TAYLOR,
Petitioners,

vs.

STATE OF OHIO,
Respondent.

PETITION FOR WRIT OF CERTIORARI
To the Court of Appeals, Sixth Appellate District, Lucas County, Ohio

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I.

QUESTIONS PRESENTED

1. Whether a search conducted pursuant to a warrant may continue once the objects specified in the warrant have already been seized?

2. Whether a search warrant purporting to authorize a search for particular items can reasonably be relied upon where there is absolutely no factual basis to include such items in the warrant?

II.

LIST OF PARTIES

The petitioners are Teresa Taylor and her husband, Calvin Taylor, who were Defendants in the criminal proceedings instituted by respondent, State of Ohio.

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Secondary Source

LaFave 2 *Search and Seizure*, Section 4.10 (a) at 329 11

No. _____

IN THE

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October Term, 1988

TERESA TAYLOR and CALVIN TAYLOR,
Petitioners,

vs.

STATE OF OHIO,
Respondent.

PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS, SIXTH APPELLATE DISTRICT,
LUCAS COUNTY, OHIO

Petitioners Calvin and Teresa Taylor, respectfully petition for a Writ of Certiorari to review the Decision and Journal Entry of the Court of Appeals for the Sixth District, Lucas County, Ohio, further review of said decision having been declined by the Ohio Supreme Court.

OPINIONS BELOW

The Lucas County Court of Common Pleas did not issue a written opinion as such. The opinion of the Lucas County Court of Appeals is unreported, and reproduced in the Appendix hereto at page A2. The Entry of the Ohio Supreme Court denying Leave to Appeal is also unreported. It is reproduced in the Appendix hereto at page A1.

JURISDICTION

The Decision and Journal Entry of the Sixth District Court of Appeals for Lucas County, Ohio, was entered on January 29, 1988. Leave to appeal to the Ohio Supreme Court was denied on July 13, 1988. The jurisdiction of the United States Supreme Court is invoked pursuant to 28 U.S.C. 1257 (3).

CONSTITUTIONAL PROVISIONS INVOLVED

1. The Fourth Amendment to the United States Constitution provides as follows:

AMENDMENT IV

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

2. The Due process clause of the Fourteenth Amendment to the United States Constitution provides as follows:

AMENDMENT XIV

> SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT OF THE CASE

The issues being presented arise out of a search of the home of Petitioners Teresa Taylor and Calvin Taylor, pursuant to a search warrant and the subsequent search of their place of business, pursuant to another search warrant that was issued based upon the evidence found during the execution of the first warrant.

Based solely upon the evidence seized, Petitioners were brought before the Lucas County Court of Common Pleas in Toledo, Ohio and charged with Aggravated Trafficking in Cocaine, an offense predicated upon the possession of a certain amount of cocaine exceeding the "bulk amount" defined by law, as well as Receiving Stolen Property, based upon certain allegedly stolen automobile parts found in the garage of Petitioners' home and an allegedly stolen radar detector found at petitioner's place of business.

A motion to suppress all evidence seized was made in the trial court. In that motion, Petitioners asserted that the search of their home and place of business were repugnant to the Fourth and Fourteenth Amendments of the United States Constitution.

The facts relevant to this matter were developed at a hearing held on Petitioners' motion to suppress. On September 14, 1986 at approximately 2:30 a.m. Toledo Police Officers Phillip Carol and Waylond Rider found a stripped 1985 Chevrolet Corvette automobile abandoned in the 1200 block of Woodstock Avenue in Toledo, Ohio. Both front fenders, both doors, the hood, radiator, radio and all four (4) wheels and tires were missing from the vehicle. The VIN plate of the auto remained intact and securely fastened to the dashboard beneath the

windshield. The ignition switch on the steering column also remained intact and had not been removed. The registration of the vehicle was also found inside the car.

The officers supposedly were able to follow a trail of antifreeze from the vehicle to 1707 Potomac, several blocks away where the trail supposedly ended at the driveway of that residence. No one else but these two officers ever saw this alleged trail of antifreeze and when questioned, the officers gave very different descriptions of the route along which the trail had supposedly followed. In any event, Detective Gerald Speelman of the Toledo Police Department Auto Theft Squad conducted further investigations and was able to observe bronze colored Corvette parts in the garage of the residence at 1707 Potomac which was the residence of Petitioners.

The next day, Detective Speelman obtained a search warrant for the premises. In his affidavit for the warrant, Detective Speelman mentioned the antifreeze trail, his own observations and added that one of the Petitioners, Calvin Taylor, had two (2) prior convictions for auto theft, citing two case numbers. In fact, Petitioner, Calvin Taylor, had never been convicted of auto theft at any time. The two case numbers in question pertained to convictions well over fifteen (15) years old, neither of which was for the offense of auto theft. Be that as it may, Detective Speelman sought and obtained a warrant authorizing him to search the Petitioners' home for the missing parts to the bronze Corvette as well as "VIN plates and other auto parts with identifying numbers".

When the police executed the warrant to search Petitioners' home, they found all of the missing parts from the bronze Corvette, except the doors, which have never been recovered. All of these parts were found in the garage of the Taylor home.

Although the Corvette parts specified in the warrant were found almost immediately, the police proceeded to ransack the Taylor home, conducting an unrestricted search of the entire premises. During the course of this search, all of the Taylors' stereo equipment was closely examined, their bedroom was searched, a desk in their living room was emptied and all of the papers and household bills kept therein were scrutinized and commented upon, three (3) vehicles (none of which were stolen) were towed and impounded, and numerous numbered and unnumbered car parts were also seized, none of which were ever determined to have been stolen.

During this unrestricted search of the premises, the police found a locked bank deposit bag in the kitchen pantry. After a period of deliberation, the officers finally decided to tear the bag open, finding what turned out to be thirty (30) ounces of cocaine. Subsequently, in a picnic basket in the kitchen, the officers found One Hundred, Six Thousand Dollars ($106,000.00) in cash. These items were found well after all of the Corvette parts had been located and seized, and these were the only items seized during the search of Petitioners' home which the trial court ordered suppressed.

In its decision, the Ohio Sixth District Court of Appeals held that the search of the bank bag and subsequent search of the picnic basket were authorized by the search warrant, reasoning as follows:

> In the case before this court, the search warrant authorized the officers to search for any car parts which could be identified as belonging to a particular 1985 Corvette. The officers were also instructed to search for such parts. The transcript of the proceedings of the suppression hearing clearly reveals the officers based their decision to open the bank bag upon the suspicious reaction of Teresa

> Taylor when the bag was discovered, the fact that the bag was found in a closet with car parts, and the fact that the bag was heavy and felt like it contained something metal. From the facts disclosed by the record, it can be concluded that a reasonable officer conducting a similar search could reasonably have believed that either the bank bag or the picnic basket contained any of the smaller parts of the Corvette, such as the VIN plate or the radio. The fact that the officers examined the bag for some time and questioned Teresa Taylor regarding its contents reflects the fact that the officers made a selective search for the objects listed in the search warrant.

The problem with the above quoted analysis is that all of the car parts from the 1985 Corvette, except for the doors (which have never been found), had already been located and seized before the bank bag was found. This is well established by testimony in the trial court record.

TESTIMONY OF DETECTIVE FRANK ZALEWSKI

> Q. So prior to opening the bag, you had the property that you were going to seize?
> A. Yes.

Suppression Hearing Transcript at 134-135.

TESTIMONY OF DETECTIVE JAMES CARNES

> Q. Okay, now, had you found any stolen car parts in the garage itself?
> A. Yes.
> Q. Okay. And did you find those car parts before or after the bag was found?
> A. Before.

Suppression Hearing Transcript at 178-179.

TESTIMONY OF OFFICER CHARLES OVERMEYER

> Q. Were the car parts or some car parts recovered from the garage already before you discovered this bank bag?
>
> A. I believe so . . .

Suppression Hearing Transcript at 99.

Without burdening the Court with quotations of further excerpts from the trial court record, it was established that all missing parts except for the doors from the vehicle were found and seized before the bank bag and picnic basket were searched. It is undisputed that the car doors were too large to fit in either the bank bag or the picnic basket.

Further, it is not true that the bank bag was found "in a closet with car parts" as stated by the Court of Appeals. In actuality, the bag was in a closet with home stereo equipment, as is clearly established by the trial court record.

TESTIMONY OF OFFICER CHARLES OVERMEYER

> . . . so I opened the door and as I opened the door there were stereo parts like radios and speakers on the floor. And all of a sudden there is a bag, a safety deposit bag which caught my eye. It was right in the open. It wasn't covered up at all. It was just sitting right there.

Suppression Hearing Transcript at 86.

While it is conceivable that the bank bag could have contained a VIN plate for the vehicle in question, the VIN plate was not missing from the vehicle. When the police were confronted with this fact at the Suppression Hearing, the response was that they were also looking for the ignition switch. Once it was established that the ignition switch was not missing, the police claimed to be

looking for "paperwork". However, the registration for the vehicle had already been found in the vehicle itself; the title was not missing and the only other "paperwork" would have been in the form of federal stickers glued to the doors which disintegrate when removed.

After searching the Petitioners' home, the police obtained a search warrant for their place of business on the basis that the VIN plate for the vehicle had not been found during the search of the Petitioners' home. This was true. However, since the VIN plate was still on the Corvette, there was no reason for the police to continue looking for it anywhere else. During the search of the premises at which Petitioners operated a beauty salon and auto body shop, the police found a radar detector that was allegedly stolen.

The Lucas County Court of Common Pleas granted Petitioners' Motion to Suppress with respect to the bank bag, picnic basket and radar detector, only, holding that the car parts in the garage had been lawfully seized. The prosecution appealed to the Ohio Sixth District Court of Appeals for Lucas County which reversed the decision of the trial court. The Ohio Supreme Court denied leave to appeal, and the case is now before this Honorable Court on Petition for Certiorari.

REASONS FOR GRANTING THE WRIT

In the case at bar, the search warrant for Petitioners' home at 1707 Potomac authorized the police to seize the following items:

> parts to a 1985 Corvette, bronze in color, VIN 1glyy0780f5126337, a hood, 2 front fenders, two doors, tires and wheels, a radiator and a stereo am/fm radio
>
> VIN plates, and other auto parts with identifying numbers

The items described in the first paragraph of the warrant are all parts that were, in fact, missing from the 1985 bronze Corvette that had been recovered in stripped condition the previous day. However, none of the items described in the second paragraph of the warrant ("VIN plates and other auto parts with identifying numbers") were items that were missing from the automobile in question. Indeed, Appellants respectfully contend that there was absolutely no basis for including those items in the warrant.

Although the Decision of the Lucas County Court of Appeals characterized the search warrant as authorizing a search for "any car parts which could be identified as belonging to a particular 1985 Corvette", the warrant actually described only certain specific parts of the vehicle in question. Other than the doors to the vehicle, all of those missing parts, including the radio, were found during the search long before the bank bag or picnic basket were located and opened. While the doors to the vehicle never were found, it is undisputed that car doors cannot be concealed in either a bank bag or a picnic basket. Thus, it defies logic for the Lucas County Court of Appeals to have concluded that the officers executing the warrant could reasonably have believed

that the radio for the Corvette could possibly have been found in either of those locations. Thus, once the vehicle parts were found in the garage, the officers' authority to search was at an end, except with respect to places where the car doors could conceivably have been concealed. *See, e.g. United States v. Ross,* 456 U.S. 798 at 820 (1982):

> A lawful search of a fixed premises generally extends to the entire area in which the objects of the search may be found . . .

There are no decisions of this Honorable Court which directly address when the authority to search under a warrant terminates. However, those lower courts which have considered the question have uniformly held that once the articles listed in a warrant are found, the officers executing the warrant are not entitled to continue their search any further. *See, United States v. Highfill,* 334 F. Supp. 700 (E.D. Ark. 1971); *United States v. Feldman,* 366 F. Supp. 356 at 364 (D. Haw. 1973); *State v. Starke,* 81 Wis. 2d 399, 260 N.W.2d 739 at 749 (1978); *Phelps v. State,* 598 P.2d 254 at 257 (Okl. Crim. App. 1979).

The general rule of law to be gleaned from the foregoing cases is succinctly stated in LaFave 2 *Search and Seizure,* Section 4.10 (a) at 329:

> When the purposes of the warrant have been carried out, the authority to search is at an end. Thus, for example, if the search warrant describes only a particular package and it is found, any evidence discovered in a continuation of a search of the premises beyond that time must be suppressed. [footnotes omitted]

Petitioners have found no case from this Honorable Court dealing with this particular issue, and would respectfully submit that the instant case would provide an excellent opportunity for the court for address this matter in a meaningful way. The issue presented is one of particular significance with respect to the proper application of the principles articulated in *United States v. Leon*, 468 U.S. 897 (1984).

In *Leon*, this Honorable Court found that the application of the exclusionary rule furthers no legitimate purpose "when an officer acting with objective good faith has obtained a search warrant from a judge or magistrate and *acted within its scope*" 468 U.S. at 920 (emphasis supplied). While the instant case does not directly involve application of the principles enunciated in *Leon*, it most assuredly provides a viable opportunity to articulate the principles to be applied in defining when a police officer has acted within the permissible scope of a search warrant.

Issues concerning the scope of search warrants have been arising with considerable frequency in the post-*Leon* judicial environment. *See, e.g. United States v. Crozier*, 777 F.2d 1376 (9th Cir. 1985); *United States v. Strand*, 761 F.2d 449 (8th Cir. 1985); *United States v. Fucillo*, 634 F. Supp. 358 (D. Mass. 1986); *United States v. Owen*, 621 F. Supp. 1498 at 1505 (E. D. Mich. 1985). *See also, United States v. Spilotro*, 800 F.2d 959 (9th Cir. 1986); *United States v. Viers*, 637 F. Supp. 1343 (W.D. Ky. 1986). While additional cases could be cited, the foregoing are illustrative of the context in which scope of the warrant questions are arising with emerging frequency. Given the overshadowing importance of *Leon* with respect to Fourth Amendment jurisprudence, questions regarding this matter will need to be addressed

by this Honorable Court sooner or later, and there would appear to be an excellent opportunity presented to address this issue in the context of the case at bar.

The instant case also presents a closely related issue regarding the constitutional propriety of a wide-ranging search for items that are within the scope of a warrant but which should never have been included in the warrant in the first place.

When questioned as to why he had requested authority to search for the VIN plate of the 1985 Corvette when it was not actually missing, Detective Speelman said that he always requested permission to search for VIN plates as a matter of routine in any case involving stolen vehicles. The facts recited in the search warrant affidavit, however, provided no reasonable basis whatsoever for concluding that the VIN plate or other unspecified auto parts with identifying numbers were missing from the 1985 Corvette, or that such items would be found at Petitioners' home or place of business.

Arguably, the allegation that Calvin Taylor had two (2) prior convictions for auto theft might tend to support an inference that VIN plates and other stolen auto parts might be found in his possession. However, those sworn allegations as to Mr. Taylor's criminal history were materially false. Thus, it appears that there was no factual basis whatsoever for including the reference to VIN plates and other unspecified auto parts in the search warrant.

The trial court correctly concluded that while the police were entitled to search for those car parts that were actually missing, there was no valid basis for them to be looking for anything else. The Lucas County Court of Appeals did not address this matter in its opinion.

Instead, the Court of Appeals simply held that the search of the bank bag and picnic basket was unobjectionable because those were places where the police could reasonably expect the radio and VIN plate to be found. However, the radio had already been found and the VIN plate was never missing. The Court of Appeals ignored the Petitioners' contention that there was actually no factual basis upon which to even premise a belief that any VIN plates or unspecified other small parts would be found on the premises, as, indeed, none ever were. The reality of the matter is that this case presents a situation where the police listed certain items in the warrant solely in order to broaden the scope of what would have been an otherwise reasonable search.

Petitioners have found no cases from this Court addressing this particular situation. The case at bar would present this Honorable Court with an excellent opportunity to address the factors to be considered in ascertaining the proper scope of a search pursuant to a warrant, should the Court be inclined to address such an issue at this time. Considering the emerging importance of this issue in light of *Leon*, Petitioners respectfully submit that these questions are of such important and timely significance as to warrant the attention of the Supreme Court of the United States.

CONCLUSION

For these reasons, this Petition for Certiorari should be granted in its entirety.

Respectfully submitted,

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APPENDIX

ORDER OF THE SUPREME COURT OF OHIO DISMISSING APPEAL

(Dated July 13, 1988)

Case No. 88-524

THE SUPREME COURT OF OHIO

COLUMBUS

STATE OF OHIO,
Appellee,

vs.

TERESA TAYLOR *et al.*,
Appellants.

ENTRY

Upon consideration of the motion for leave to appeal from the Court of Appeals for Lucas County, and the claimed appeal as of right from said Court, it is ordered by the Court that said motion is overruled and the appeal is dismissed sua sponte for the reason that no substantial constitutional question exists therein.

COSTS:

Motion Fee, $20.00, paid by John F. Potts.

/s/ THOMAS J. MOYER
Chief Justice

DECISION AND JOURNAL ENTRY OF THE COURT OF APPEALS OF LUCAS COUNTY, OHIO

(Filed January 29, 1988)

C. A. No. L-87-119

COURT OF APPEAL OF OHIO,
SIXTH DISTRICT
COUNTY OF LUCAS

STATE OF OHIO,
Appellant

vs.

TERESA TAYLOR and
CALVIN TAYLOR,
Appellees.

DECISION AND JOURNAL ENTRY

Pursuant to App. R. 3(B), appeal Nos. L-87-118 and L-87-119 were consolidated by order of this court filed June 26, 1987. The appeal then proceeded under Appeal No. L-87-119.

This case comes before this court on appeal by appellant, state of Ohio, on the order of the Lucas County Court of Common Pleas granting, in part, appellees' motion to suppress.

On September 15, 1986, a search warrant was issued authorizing the search of defendants' home at 1707 Potomac. The search warrant directed the officers to search for parts to a 1985 Corvette, including, a hood,

two front fenders, two doors, tires and wheels, a radiator, radio, VIN plates, and other parts with the VIN imprinted on them. The officers were instructed to search for Corvette parts and parts with the specified VIN. In the course of the search, an officer discovered a locked bank bang in a closet surrounded by auto parts which defendant-appellee, Teresa Taylor, told the officer that he did not need to search. Teresa Taylor was questioned regarding the contents of the bag which she at first claimed was used in her business and later denied knowing the bag's contents. Several officers examined the bag to determine what they believed it could contain. The officers noted that the bag was heavy and so full that the sides bulged. It was decided that it felt like it contained something as hard as metal, perhaps a VIN plate or an ignition switch. When a key could not be produced, the bag was cut open and found to contain thirty ounces of cocaine. The search continued and an officer discovered $106,000 in a picnic basket under the kitchen table. Also seized were some of the Corvette parts listed in the search warrant.

Both defendants filed motions to suppress all of the evidence seized. The trial court granted the motion to suppress with regard to the drugs and the money but denied the motion to suppress as to all other evidence seized.

The appellant appealed from this judgment and asserts two assignments of error:

> [1.] "THE TRIAL COURT ERRED IN GRANTING THE MOTION TO SUPPRESS THE DRUGS FOUND IN THE BANK BAG AND THE CASH FOUND IN THE PICNIC BASKET AS THE DEFENDANTS HAD NO STANDING TO OBJECT TO THE SEARCH OF SAID ITEMS."

[2.] "THE TRIAL COURT ERRED IN GRANTING THE MOTION TO SUPPRESS, IN PART, AS THE SEARCH WAS WITHIN THE SCOPE OF THE WARRANT."

The court will address the second assignment of error first. Appellant contends in its second assignment of error that the trial court erred in granting the motion to suppress in part because the police did not search beyond the scope of the warrant.

The purpose of the requirement that the search warrant specifically set forth the objects to be seized is to prevent generalized searches where the officers are given broad discretion to determine what to seize. *Marron v. United States* (1927), 275 U.S. 192, 196. An exception has been made to this general rule where contraband or evidence of another crime is discovered during a valid search for another purpose. The rationale being that it is unreasonable to require the officer to overlook the object just because he was not directed to search for it. *Gurleski v. United States* (C.A.5, 1968), 405 F. 2d 253, 257-59, certiorari denied (1969), 395 U.S. 981, citing to *Abel v. United States* (1960), 362 U.S. 217, 238, and *Harris v. United States* (1947), 331 U.S. 145, 153. A limitation on the exception is that the lawful search during which the unrelated evidence was seized must be conductd in a reasonable manner as defined by the scope and intensity of the search warrant. *Terry v. Ohio* (1967), 392 U.S. 1, 17-18.

The scope and intensity of the search is defined by the objects listed in the search warrant and the manner in which it was carried out. The search must be made with the objective of good faith to carry out the purposes of the search warrant and not used to make a generalized search of private property. However, it is not the fact that a search covered the entire premises that

makes it a generalized search, but rather, whether the search was confined to those areas where the officers reasonably believed that the object identified in the search warrant could be found. *United States v. Leon* (1984), 468 U.S. 897, 920. *United States v. Rettig* (C.A.9, 1978), 589 F. 2d 418, 423. *United States v. Turner* (C.A.9, 1975), 528 F. 2d 143, 159. Thus, it is the object of the search, and not the container, which defines the scope of this search. The officer can search anywhere within the premises indicated in the search warrant if he believes the object could be found there, even if this would require him to open containers, enter rooms, etc. *United States v. Ross* (1982), 456 U.S. 798, 820-21. If the standard is that the officer exercised objective good faith in searching within the scope of the warrant, then the goal of the exclusionary rule of preventing unlawful searches is achieved. *United States v. Leon, supra,* at 919-20.

In the case before this court, the search warrant authorized the officers to search for any car parts which could be identified as belonging to a particular 1985 Corvette. The officers were also instructed to search for such parts. The transcript of the proceedings of the suppression hearing clearly reveals the officers based their decision to open the bank upon the suspicious reaction of Teresa Taylor when the bag was discovered, the fact that the bag was found in a closet with car parts, and the fact that the bag was heavy and felt like it contained something metal. From the facts disclosed by the record, it can be concluded that a reasonable officer conducting a similar search could reasonably have believed that either the bank bag or the picnic basket contained any of the smaller parts of the Corvette, such as the VIN plate or the radio. The fact that the officers examined the bag for some time and questioned Teresa

Taylor regarding its contents reflects the fact that the officers made a selective search for the objects listed in the search warrant.

Therefore, in consideration of the above, this court finds that the evidence was obtained during a lawful search and should not have been suppressed. Accordingly, we find appellant's second assignment of error well-taken.

Having thus found that there was no violation of defendants' Fourth Amendment rights, the first assignment of error as to defendants' standing to assert a Fourth Amendment claim is rendered moot and, therefore, not well-taken.

The judgment of the Lucas County Court of Common Pleas is reversed insofar as it granted the motion to suppress the cocaine and money as evidence to be used in both trials. This cause is remanded to the trial court for further proceedings not inconsistent with this decision and assessment of costs against appellee.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure. See also Supp. R. 4, amended 1/1/80.

PETER M. HANDWORK, *P.J.*
ALICE ROBIE RESNICK, *J.*
GEORGE M. GLASSER, *J.*
Concur.

JUDGMENT ENTRY OF THE COURT OF COMMON PLEAS

(Dated April 1, 1987)

Case No. 86-6574A

IN THE COURT OF COMMON PLEAS

LUCAS COUNTY, OHIO

STATE OF OHIO,
Plaintiff,

vs.

TERESA TAYLOR,
Defendant.

Court Reporter McGill ordered. Defendant present in court with counsel, Sheldon Wittenberg; State of Ohio represented by Ruth Ann Franks. Case called for trial. The Court hereby issues the following rulings: Motion to Suppress is granted as to the alleged drugs found in the money bag; Motion to Suppress is granted as to the cash found in the picnic basket; Motion to Suppress is granted as to the radar detector; Motion to suppress is denied as to all of the other evidence seized in this case. Defense counsel's motion for return of property and for release of bond are denied pending indicated appeal by the State of Ohio. Case held in abeyance pending outcome of indicated appeal.

/s/ ROBERT G. CHRISTIANSEN

JUDGMENT ENTRY OF THE COURT OF COMMON PLEAS

(Dated April 1, 198[illegible]

Case No. 86-6574B

IN THE COURT OF COMMON PLEAS

LUCAS COUNTY, OHIO

STATE OF OHIO,
Plaintiff,

vs.

CALVIN TAYLOR,
Defendant.

Court Reporter McGill ordered. Defendant present in court with counsel, John Potts. State of Ohio represented by Ruth Ann Franks. Case called for trial. The Court hereby issues the following rulings: Motion to Suppress is granted as to the alleged drugs found in the money bag; Motion to Suppress is granted as to the cash found in the picnic basket; Motion to Suppress is granted as to the radar detector; Motion to Suppress is denied as to all of the other evidence seized in this case. Defense counsel's motion for return of property and for release of bond are denied pending on indicated appeal by the State of Ohio. At the request of the Prosecuting Attorney and for good cause shown, a nolle prosequi is entered herein as to Count 1 of the Indictment against Calvin Taylor charging the offense of Retaining Stolen Property, Motor Vehicle, in violation of Section 2913.51. Count 2 as to Calvin Taylor is held in abeyance pending outcome of indicated appeal.

/s/ ROBERT G. CHRISTIANSEN